

## Message Text

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ACTION L-02

INFO OCT-01 EUR-08 ISO-00 ACDA-05 PM-03 NSC-05 SP-02 SS-15

RSC-01 CIAE-00 INR-05 NSAE-00 DODE-00 PRS-01 IO-04

SSO-00 NSCE-00 INRE-00 /052 W  
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FM AMEMBASSY MOSCOW

TO SECSTATE WASHDC IMMEDIATE 4229

INFO USMISSION USUN IMMEDIATE

C O N F I D E N T I A L MOSCOW 16718

E. O. 11652: GDS

TAGS: PFOR, UNGA, UR

SUBJ: UNGA LEGAL COMMITTEE: DEFINITION OF AGGRESSION

REF: A. STATE 23864

B. USUN 4527

C. MOSCOW 16042

1. JUST BEFORE COB NOVEMBER 1 MFA TREATY AND LEGAL DIVISION  
COUNSELOR MAYORSKIY CALLED IN EMBOFF URGENTLY AND HANDED  
HIM NON-PAPER IN RESPONSE TO OUR DEMARCHE (REFTEL C) ON THE  
DEFINITION OF AGGRESSION. OUR TRANSLATION FOLLOWS.

2. BEGIN TEXT. THE SOVIET SIDE CANNOT AGREE WITH THE OPINION  
IN THE EMBASSY'S DEMARCHE THAT ADOPTION BY THE SECURITY  
COUNCIL OF ANY DECISION OR OTHER MEASURES FOR GIVING BINDING  
FORCE TO THE DEFINITION OF AGGRESSION WOULD LIMIT THE  
FREEDOM OF ACTION OF THE SECURITY COUNCIL IN ITS ESTABLISHING  
THE FACT OF A COMMISSION OF AGGRESSION. IN ACCORDANCE WITH  
ARTICLE 39 OF THE UN CHARTER THE SC HAS POWERS TO DEFINE THE  
EXISTENCE OF AN ACT OF AGGRESSION AND NO PROVISION OF THE  
AGREED DRAFT DEFINITION OF AGGRESSION WOULD LIMIT THE POWERS  
OF THE SC IN THIS AREA. AT THE SAME TIME THE ADOPTION BY THE  
SC OF A DECISION GIVING BINDING FORCE TO THE AGREED DEFINITION  
OF AGGRESSION WOULD STRENGTHEN THE SIGNIFICANCE OF THIS  
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DEFINITION AND WOULD HELP THE SC IN CARRYING OUT THE FUNCTIONS

GIVEN IT BY THE UN CHARTER. WE WOULD LIKE TO CALL THE EMBASSY'S ATTENTION TO THE SHARP TONE OF ITS DEMARCHE WHICH IN NO WAY CORRESPONDS TO THE CHARACTER OF SOVIET-AMERICAN CONTACTS ON INTERNATIONAL QUESTIONS.

I AM ALSO INSTRUCTED TO STATE THAT IN THE INTEREST OF A SUCCESSFUL CONCLUSION OF THE MANY YEARS' WORK ON THE DRAFT DEFINITION OF AGGRESSION AND OF SECURING FOR IT BROAD SUPPORT DURING ITS ADOPTION BY THE UNGA AND ALSO IN AN EFFORT TO AVOID OPPOSITION (PROTIVOSTOYANIYE) BETWEEN THE SOVIET AND U.S. DELEGATIONS IN THE ASSEMBLY, THE SOVIET SIDE CONSIDERED IT POSSIBLE TO AGREE ON INCLUSION IN THE RESOLUTION APPROVING THE DEFINITION OF AGGRESSION A PROVISION TO THE EFFECT THAT THE UNGA RECOMMEND THAT THE SC AS APPROPRIATE TAKE THE DEFINITION OF AGGRESSION INTO CONSIDERATION AS GUIDANCE (RUKOVODSTVO) IN ESTABLISHING THE EXISTENCE OF AN ACT OF AGGRESSION IN ACCORDANCE WITH THE UN CHARTER. END TEXT

3. MAYORSKIY, WHO WAS AGREEABLE THROUGHOUT, SAID THAT THE SOVIET DECISION TOOK ACCOUNT OF DEVELOPMENTS IN NEW YORK IN RECENT DAYS AND WAS TAKEN "IN THE SPIRIT OF COMPROMISE."

4. COMMENT. SOVIET PAPER WOULD APPEAR TO RATIFY COMPROMISE DESCRIBED IN REFTEL B. WE NOTE THAT LANGUAGE IN LAST SENTENCE IS CLOSER TO FORMULATION IN PARAGRAPH 7 OF REFTEL B THAN TO FORMULATION IN PARAGRAPH 5. IT IS INTERESTING THAT THE MFA FELT IT NECESSARY TO BLUSTER SO MUCH IN ITS UNUSUAL PAPER. WE TAKE THIS AS AN INDICATION THAT, AS WAS SUSPECTED ALL ALONG, SOME FAIRLY BIG TOES IN MOSCOW HAVE BEEN TROD UPON DURING THE INTERNAL DEBATE OVER THIS ISSUE.  
STOESSEL

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** INTERVENTION, COMMITTEES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 01 NOV 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** smithrj  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1974MOSCOW16718  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
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**Page Count:** 2  
**Previous Channel Indicators:**  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** A. STATE 23864  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** smithrj  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 10 JUN 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <10 JUN 2002 by boyleja>; APPROVED <12 MAR 2003 by smithrj>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** UNGA LEGAL COMMITTEE: DEFINITION OF AGGRESSION  
**TAGS:** PFOR, UR, UNGA, UNSC  
**To:** STATE  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005